

## **REPEAL. Mississippi Administrative Code Part 4, Chapter 7, Rules 7.1 – 7.15**

### **Title 6: Economic Development**

#### **Part 4: Community Services**

#### **Part 4 Chapter 7: HOME Program**

##### *Rule 7.1 Organizational Status (Legal Status) and Mission Requirements for CHDO Certification*

- ~~— A. Organized Under State/Local Law. An organization must show evidence to MDA either in its charter or articles of incorporation, that it is organized under state or local law.~~
- ~~— B. Non Profit Status. A tax exemption ruling from the Internal Revenue Service as evidenced by a 501(c) (3) or (c) (4) Certificate from the IRS.~~
- ~~— C. Purpose of Organization. The organization's primary purpose must be the provision of decent housing that is affordable to low income people. This must be evidenced by a statement in the organization's charter, articles of incorporation, by laws, or resolutions.~~

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

##### *Rule 7.2 Additional Considerations:*

- ~~— A. Strategic Plan. CHDOs and CHDO aspirants are required to submit a comprehensive strategic plan to MDA. In order to be a comprehensive plan, the document submitted must address the following:~~
  - ~~(i). The mission, goals, and vision of the organization~~
  - ~~(ii). Whom you will serve~~
  - ~~(iii). The organization's role in the community~~
  - ~~(iv). The programs, services, and products you offer~~
  - ~~(v). The resources needed to succeed~~
  - ~~(vi). The best way to combine resources, programming and relationships to accomplish the organization's mission~~
- ~~— B. F/A 110 Conformity Statement. You will be required to submit a statement that commits your organization to comply with the federal regulations A 110. You may request a copy of this regulation from MDA if you need one. This statement must be on the organization's letterhead.~~

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.3 Requirements.* There are three specific requirements related to the organization's board, which must be evidenced in the organization's by laws, charter, or articles of incorporation. These are:

- ~~— A. Low Income Representation. At least 1/3 of the organization's board must be representatives of a low income community served by the CHDO. The CHDO is required to certify the status of low income representatives. There are three (3) methods to meet the HOME requirement that stipulates 1/3 of the organization's board be~~

~~—representatives of a low-income community serviced by the CHDO. If a potential board—  
—member fits one of the following descriptions, then he/she count towards fulfilling this  
—requirement:~~

- ~~(i). The person lives in a low-income neighborhood where 51% or more of the residents are low income. This resident does not have to be low income. In order to qualify under this criteria, the board member must live in a low-income neighborhood where 51% or more of the residents are low income. The board member does not have to be low income. Neighborhood means a geographic location designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government; except that if the unit of general local government has a population under 25,000, the neighborhood may, but need not encompass the entire area of the unit of a general local government.~~
- ~~(ii). The person is a low-income resident of the community. In order to qualify under this criteria, the board member must be a low-income resident of a community that the CDHO is certified to serve. Low-income is defined as 80% or less of area median family income.~~
- ~~(iii). The person was elected by a low-income neighborhood organization to serve on the CHDO board. The organization must be composed primarily of residents of the low-income neighborhood and its primary purpose must be to serve the interests of the neighborhood residents. Such organizations might include block groups, neighborhood associations, and neighborhood watch groups. In order to qualify under this criteria, the board member must be elected by a low-income neighborhood organization to serve the CHDO Board. The group must be a neighborhood organization and it may not be the CHDO itself. If the board member is qualifying under this criterion, a copy of the signed resolution from the neighborhood organization naming the individual as their representative on the CHDO is required.~~
- ~~—B. Public Sector Limitations. No more than 1/3 of the organization's board may be  
—representatives of the public sector. States or local governments who charter CHDOs  
—may not appoint more than 1/3 of the board, and the board members appointed by the state  
—or local government may not appoint the remaining 2/3 of the board members. If a person  
—qualifies as a low-income person and a public official, their role as a public sector  
—representative supersedes their residency or income status. Therefore, the official counts  
—toward the 1/3 public sector limitation.~~
- ~~—C. For Profit Limitations. If a CHDO is sponsored by a for-profit entity, the for-profit  
—may not appoint more than 1/3 of the board. The board members appointed by the for-  
—profit may not appoint the remaining 2/3 of the board members.~~

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.4 Additional Considerations:*

- ~~—A. Board Stability. There should be stability/continuity of board members over the last  
—several years.~~
- ~~—B. Development Oversight. The Board should have a committee structure or other  
—means of overseeing planning and development.~~
- ~~—C. Board Skills. The Board members should have professional skills directly relevant to  
—housing development. For example, real estate, legal, architectural, planning,~~

- construction, finance and management experience are all professional skills that are
- relevant to housing development.
- D. Decision Making. The Board should demonstrate the ability to make timely
- decisions using an appropriate process.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.5 Requirements for Sponsorship.*

- A. Control. The CHDO is not controlled, nor receives directions from individuals or
- entities seeking profit from the organization, as evidenced by the organization's by laws
- or a Memorandum of Understanding.
- B. Creation or Sponsorship by a For-Profit Entity. If sponsored or created by a for-profit
- entity, the for-profit entity's primary purpose does not include the development of
- management of housing, as evidenced in the for-profit organization's by laws.
- C. Freedom to Contract for Goods and Services. If sponsored or created by a for-profit
- entity, the CHDO is free to contract for goods and services from vendor(s) of its own
- choosing, as evidenced by its by laws, charter, or articles of incorporation.
- D. Sponsorship by a Religious Organization. If sponsored by a religious organization,
- the CHDO is a separate secular entity from the religious organization, with membership
- available to all persons, regardless of religion or membership criteria, as evidenced by its
- by laws, charter, or articles of incorporation.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.6 Organizational Structure Requirements.* The HOME Program establishes requirements for the organizational structure of a CHDO to ensure that the governing body or the organization is controlled by the community it serves. These requirements are designed to ensure that the CHDO is capable of decisions and actions that address the community's needs without undue influence from external agendas.

- A. History of Serving the Community. The organization has a history of serving the
- community within which housing to be assisted with HOME funds is to be located, as
- evidenced by either documentation of at least one (1) year of experience in serving the
- community or for new organizations, documentation that its parent organization has at
- least one (1) year of experience serving the community.
- B. Low Income Input. Input from the low income community is not met solely by
- having low income representation on the board. The CHDO must provide a formal
- process for low income program beneficiaries to advise the CHDO on design, location of
- sites, development and management of affordable housing. The process must be
- described in writing and must be documented in the organization's by law, resolutions, or
- a written statement of operating procedures approved by the governing body. Each
- project undertaken by the CHDO should allow potential program beneficiaries to be
- involved and provide input on the entire project from project concept and site selection to
- property management. One way to accomplish this requirement is to develop a project
- advisory committee for each project or community where a HOME-assisted project will
- be developed. Proof of input from the potential low income program beneficiaries in all
- aspects of the project will be required for HOME project funding.

- ~~— C. Clearly Defined Service Area. The organization must have a clearly defined geographic service area, which can be described and documented. CHDOs may serve individual neighborhoods or large areas. However, while organization may include the entire community in their service area (such as a city, town, village, county, or multi-county area), they may not include the entire state.~~

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.7 Additional Considerations:*

- ~~— A. Needs. Current plans should be well grounded in an understanding of current housing conditions; housing needs, and need for supportive services. The organization should have an analysis of the local housing market and the housing needs of low income households.~~
- ~~— B. Relations. The organization should have a good reputation and a positive relationship with the community it services.~~
- ~~— C. Local Government Relations. The CHDO should have a positive relationship with the local government(s) of the community(s) that it serves.~~

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.8 Financial Management Requirements:*

- ~~— A. Conformance to Accountability Standards. The organization must conform to the financial accountability standards of 24 CFR 84.21, “Standards for Financial Management Systems”, as evidenced by notarized statement by the board president or Chief Financial Officer (CFO), or a certification from a Certified Public Accountant (CPA), or a HUD approved audit summary.~~
- ~~— B. No Individual Benefit. No part of a CHDO’s net earnings (profits) may benefit any members, founders, contributors, or individuals. This requirement must also be evidenced in the organization’s charter or articles of incorporation.~~

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.9 Additional Considerations regarding Financial Management Requirements:*

- ~~— A. Audit. Audit information will be reviewed.~~
- ~~— B. Budgeting. The organization should conduct annual budgeting of its operations and all activities and programs. It should track and report budget versus actual income and expenses.~~
- ~~— C. Reporting. Financial reporting should be regular, current and sufficient for the board to forecast and monitor the financial status of the corporation.~~
- ~~— D. Cash Flow Management. The organization should know its current cash position and maintain control over expenditures.~~
- ~~— E. Internal Controls. The organization should have adequate internal controls to ensure separation of duties and safeguarding of corporate assets. There should be sufficient oversight of all financial activities.~~
- ~~— F. Procurement/Conflict of Interest. The organization should have a conflict of interest policy governing board members, employees, and development activities, particularly in~~

- procurement of contract services and the award of housing units for occupancy.
- G. Insurance. The organization should maintain adequate insurance, including liability, fidelity, bond workers compensation, property hazard and project. In regards to bonding provisions (surety bond), the organization shall obtain a minimum bonding of \$75,000 to protect the interest of the organization and any entity, which shall award funds unto the organization. If funded, the CHDO is required to increase the surety bond to \$150,000 for each principal.
- H. Financial Stability. The current balance sheet and budget should indicate a sufficient, diversified and stable funding base to support essential operations.
- I. Portfolio Financial Condition. If the organization has a portfolio of properties, they should be in stable physical and financial condition.
- J. Liquidity. Whether the organization has liquid assets available to cover current expenses shall be considered, as well as whether the organization has funds available for predevelopment expenses or equity investments required for development.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.10 Capacity to Carry Out Activities.* The organization must have demonstrated capacity for carrying out activities assisted with HOME funds, as evidenced by either experience of key staff that has completed similar projects to HOME funded activities or the organization should have contracts with consultants who have relevant housing experience to train key staff.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.11 Additional Considerations for Activities.*

- A. Portfolio. The organization's portfolio of projects and properties should evidence competent management and oversight.
- B. Previous Performance. The organization should have exhibited competence with any previous CHDO activities.
- C. Management Capacity. The organization's management should have the capacity and ability to manage additional development activities.
- D. Procedures. There should be policies and procedures in place to govern development activities.
- E. Project management. The organization should have procedures for monitoring the progress of a project and the capacity to monitor project level cash flow and schedules.
- F. Personnel. There should be staff that is assigned responsibilities for housing development and personnel policies and job descriptions should be clear.
- G. Staff Skills. The strength of staff in the following areas shall be considered:
  - (i). Legal/financial aspects of housing development
  - (ii). Management of real estate development
  - (iii). Oversight of design & construction management
  - (iv). Marketing, intake
  - (v). Property management (if applicable)
- H. Training. Staff should be encouraged to obtain training and develop skills.
- I. Member involvement. The organization's membership should be active and in
- J. Support of the organization's housing activities.

- ~~—K. Use of consultants. To what extent the CHDO has access to and makes use of~~
- ~~—qualified development consultants shall be considered, as well as how these consultants~~
- ~~—interact with staff.~~
- ~~—L. Funding access. The organization should have the ability to raise funds for—the~~
- ~~—capital requirements of a project.~~

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.12 MDA Reservations.* MDA reserves the right to determine if the housing development experience and financial stability of the non-profit organization is adequate for certification and if the organization has the capacity to carry out HOME-funded activities.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.13 Effective Period of CHDO Certification.* In order to maintain a current state CHDO Certification, the CHDO must submit a complete application for funding through the MDA. The CHDO must be awarded grant funds. The certification period will be effective for the two (2) or three (3) year period of the contract. CHDOs will no longer be required to be recertified annually.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.14 The Consolidation Plan.* Activities conducted by CHDOs must be consistent with the state's Consolidated Plan. The Consolidated Plan identifies housing and community development needs in the state's jurisdiction and provides long-term strategy for addressing those needs. The Consolidated Plan indicates the level of resources, which are allocated to each program. Each year the state must develop an Action Plan, which spells out which activities it will carry out and how much money will be spent in each area. The Consolidated Planning process is an opportunity for CHDOs to provide input to the state on how its funds are allocated.

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92

*Rule 7.15 How to Apply for CHDO Certification.*

- ~~—A. Complete the CHDO Certification Application, including all requested documentation~~
- ~~—forms.~~
- ~~—B. Submit one (1) original and one (1) copy of the entire application. The application~~
- ~~—should be bound with a binder clip, 3-ring binders or any other forms of binding.~~
- ~~—C. The application may be mailed or hand delivered to the address below.~~

Source: 42 USCA § 12701 *et seq.*; Pub. L. 101-625, title I *et seq.*; 24 CFR 92